

Appl. No.: 10/068,320  
Amdt. Dated: August 23, 2004  
Reply to Office Action of February 24, 2004  
Atty. Docket: Z1154-02121

### Remarks

Reconsideration of the pending application is respectfully requested. After entry of the enclosed amendment, Claims 1, 5-8, and 13-22 remain in the pending application. Claims 2-4, 9-12, and 23 have been previously canceled. Claims 1, 6, 8, 13, and 21 have been amended to more clearly define Applicant's instant invention.

### Request For Continued Examination Under 37 C.F.R. §1.114

Applicant's attorney takes note of and appreciates Examiner's grant of Applicant's request for continued examination under 37 C.F.R. §1.114 filed on December 4, 2003.

### Claim Rejections—35 U.S.C. §112

The Examiner has rejected Claim 6 under 35 U.S.C. §112[2] as being indefinite for failing to particularly point out or distinctly claim the subject matter which applicant regards as the invention. The Examiner further states that it is unclear if the frangible webs set forth in Claim 6 are separate or the same elements as the frangible webs introduced in Claim 1.

Applicant has amended Claim 6, rendering said grounds of rejection moot. Accordingly, Applicant submits that the amended Claim 6 now complies with 35 U.S.C. §112[2], and therefore respectfully requests withdrawal of this rejection.

### Claim Rejections—35 U.S.C. §102

The Examiner has rejected Claims 1, 5-7, and 13-22 under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 4,907,708, issued to Csaszar. Claims 1, 13, and 21 have been amended, and Applicant submits the amendments overcome the Examiner's grounds of rejection.

The Examiner states that Csaszar teaches a closure 1, shown in Fig. 10, having a top wall, a skirt 11, a tamper indicating band at 12, frangible webs 14, an annular step 7a, a tamper indicating bead 7b, and a container finish bead 16. The Examiner further states that the upper portion of the finish bead is located above lead line 16 at the top of the bead, and the lower portion of the finish bead is located at lead line 16. The Examiner maintains that Csaszar teaches a transition surface just above lead line 16, and the annular step engages the lower portion when the closure is being applied to the container.

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Furthermore, regarding Applicant's Claims 21 and 22, the Examiner states that Csaszar teaches a closure 1, shown in Fig. 7, having a top wall, a skirt 11, and a tamper indicating band at 12, frangible webs 14, and annular step 7a, a tamper indicating bead 7c, and a container finish bead 16. The Examiner further states that the upper portion of the finish bead is located above lead line 16 at the top of the bead, and the lower portion of the finish bead is located below lead line 16.

Csaszar does not, however, anticipate Claims 1, 13, and 21, as amended. More specifically, Csaszar does not teach a neck bead on the container having a substantially horizontal lower surface extending from the neck of the container. Furthermore, Csaszar does not teach a tamper indicating bead having a substantially horizontal upper surface and inhibiting lateral force components. This feature is advantageous because the bead prevents the tamper indicating band from shifting downward and allows all of the frangible webs to break. Claims 1, 13, and 21, as amended, recite this feature, which is not taught or suggested by the reference. Applicant submits that Claims 1, 13, and 21, as amended clearly recite novel subject matter which is novel over Csaszar. As such, Applicant submits that Claims 1, 13, and 21 be allowable as amended. Since Claim 1 is believed to be allowable as amended, Applicant submits that Claims 5-7, which all directly depend from Claim 1, also be allowable. Since Claim 13 is believed to be allowable as amended, Applicant submits that Claims 14-20, which all depend from Claim 13 either directly or indirectly, also be allowable. Since Claim 21 is believed to be allowable as amended, Applicant submits that Claim 22, which directly depends from Claim 20, also be allowable. Applicant respectfully requests the grounds of this rejection be withdrawn.

Claim Rejections—35 U.S.C. §103

The Examiner has rejected Claim 8 under 35 U.S.C. §103(a) as being obvious over the combination of U.S. Patent No. 4,907,708 (hereinafter referred to as '708), issued to Csaszar, and U.S. Patent No. 4,343, 408 (hereinafter referred to as '408), issued to Csaszar. Claim 8 has been amended, and Applicant submits this amendment overcomes the Examiner's grounds of rejection.

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The Examiner states that '708 discloses the claimed invention except for the upper surface of the bead being substantially horizontal, and that '408 teaches that it is known to provide a tamper band with a bead having a substantially horizontal upper surface. The Examiner further states that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the closure of '708 with the bead having an upper surface which is substantially horizontal, as taught by '408, in order to provide a more firm engagement between the container bead and the tamper indicating band.

The Examiner also states that Csaszar teaches a closure 1, shown in Fig. 7, having a top wall, a skirt 11, a tamper indicating band at 12, frangible webs 14, an annular step 7a, a tamper indicating bead 7c, and a container finish bead 16. The Examiner further states that the upper portion of the finish bead is located above lead line 16 at the top of the bead, and the lower portion of the finish bead is located below lead line 16.

Claim 8 has been amended to include a corresponding container having an open end and an annular neck bead having a substantially horizontal lower surface extending from the neck and positioned below the open end. This configuration results in the annular step of the tamper indicating bead to be in an interfering relationship with the neck bead, and is advantageous because the bead prevents the tamper indicating band from shifting downwards and allows all of the frangible webs to break. A combination of the '708 and '408 references fail to teach a container having an open end and an annular neck bead below the open end, wherein the neck bead has a substantially horizontal lower surface extending from the neck, and wherein the annular step of the tamper indicating band is in interfering relationship with the neck bead of the container. Claim 8 now, as amended, recites these features, which are not taught or suggested by any of the references. Applicant submits that Claim 8 clearly recites unobvious and novel subject matter which is distinguishable over the '708 and '408 references. Applicant respectfully requests the grounds of this rejection be withdrawn.

Allowable Subject Matter

Applicant's attorney takes note of and appreciates Examiner's allowance of Claim 24.

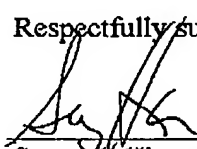
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**CONCLUSION**

Applicant's attorney asserts that the instant application is in condition for allowance. Applicant's attorney, therefore, respectfully requests that the Examiner allow the claims. However, if the Examiner believes there are other unresolved issues in this case, Applicant's attorney of record would appreciate a call at (502) 584-1135.

Respectfully submitted,

Dated: August 23, 2004

  
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